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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,723	10/22/2003	Manuel Antonio Medel	11066	7668

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EXAMINER

MORROW, JASON S

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/690,723

Applicant(s)

MEDEL, MANUEL ANTONIO

Examiner

Jason S. Morrow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-17 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/5/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Chile on April 30, 2003. It is noted, however, that applicant has not filed a certified copy of the Chilean application as required by 35 U.S.C. 119(b).

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 630. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the side walls having a trapezoidal shape must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing

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sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 16 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not discuss a construction in which a bottom portion, a plurality of side walls, a front section, and a visor are formed from polymers.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 is directed to the side walls having a trapezoidal shape, however, it does not appear from the drawings the side walls are trapezoidal and that applicant may be intending to claim a different shape.

*Claim Rejections - 35 USC § 103*

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-3, 5, 6, 8, 9, 11, 12, 15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Svenson in view of D'Amico.

Re claim 1, Svenson discloses a mining hopper for the transport of material comprising at least one rigid portion (2, 4, 16), at least one rubber portion (5), wherein the at least one rubber portion comprises a substantially planar mat varying in thickness (the matter is thicker at 8) over its length.

Re claim 2, the at least one rigid portion comprises a bottom floor (2, 3), a plurality of side walls (16), and a front wall (20).

Re claim 3, the at least one rigid portion further comprises a visor portion (not labeled but shown at the extreme left of figure 1).

Re claim 5, a fastening system (7) for support in the substantially planar mat is provided.

Re claim 6, the fastening system comprises a plurality of elastomeric ropes (7) which are located in parallel with one another.

Re claim 8, a support frame (2, 3) is provided, the support frame comprising a plurality of square-shaped longitudinal beams and a plurality of square-shaped transverse beams, the transverse beams being perpendicular to the longitudinal beams.

Re claim 9, the rigid portion comprises a front wall (20) and a plurality of side walls (16).

Re claim 11, the side walls (16) have a trapezoidal shape.

Re claim 12, the hopper includes a front wall (20) and wherein the thickness of the planar mat varies such that the planar mat is thinner in an area which is closest to the front wall (see figure 1, thinner than the area at 8)

Re claim 15, Svenson discloses a mining hopper for the transport of rock and ores comprising a rigid portion (2, 14, 16), a portion formed from polymers (5), wherein the portion formed from polymers comprises the body of the mining hopper the body bearing the impact and wear resulting from the transport of the rocks and ores and wherein the rigid portion functions to fasten and support the portion formed from polymers.

Re claim 17, the mining hopper includes a bottom portion (2, 3), a plurality of sidewalls (16), a front section (20), and a visor (unmarked but shown at the extreme left of figure 1) and

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wherein the bottom portion, the plurality of side walls, the front section and the visor are formed from a mixture of polymers and steel.

Svenson does not disclose the rigid portion being steel.

D'Amico teaches a rigid portion of a hopper being steel.

It would have been obvious to one of ordinary skill in the art to construct rigid portions of a hopper, such as that disclosed by Svenson, from steel, as taught by D'Amico in order to construct the rigid portions from a commonly used and widely available material.

10. Claims 7, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Svensson and D'Amico, as applied above, and further in view of Stenman.

Svensson and D'Amico disclose all of the limitation of the claims, as applied above, except for at least one clamp and one bolt being associated with each elastomeric rope for adjusting the tension on each of the elastomeric ropes, the elastomeric ropes comprising polyester fibers covered with rubber, or at least one removable and adjustable rubber block fastened to the steel portion.

Stenman teaches at least one clamp and one bolt (see figure 4) being associated with elastic ropes for adjusting the tension on each of the elastomeric ropes, the elastomeric ropes comprising polyester fibers covered with rubber (the polyester fibers are covered by the rubber 12), and at least one removable and adjustable rubber block (12) fastened to a steel portion.

It would have been obvious to one of ordinary skill in the art to modify a hopper, such as that disclosed above, to include at least one clamp and one bolt being associated with each elastomeric rope for adjusting the tension of the elastomeric ropes, the elastomeric ropes

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comprising polyester fibers covered with rubber, and at least one removable and adjustable rubber block fastened to the steel portion, as taught by Stenman, in order to provide a hopper which is easily manufactured (Stenman, column 1, lines 40-43).

11. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Svensson and D'Amico in view of Nielsen.

Svensson and D'Amico disclose all the limitations of the claims, as applied above, except for the front wall having a rectangular shape and a hexagonal hyperbolic base.

Nielsen teaches the use of a mining hopper with a front wall having a rectangular shape and a hexagonal hyperbolic base (see figure 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a mining hopper, such as that disclosed above, to have a front wall having a rectangular shape and a hexagonal hyperbolic base, as taught by Nielson, in order to provide a commonly shaped front wall of mining hopper which allows the storage of more material than a rectangular shaped front wall in the hopper.

*Allowable Subject Matter*



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12. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Coleman discloses a dump body. Speece discloses protective caps for the edges of a load compartment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason S. Morrow whose telephone number is (571) 272-6663. The examiner can normally be reached on Monday-Friday, 8:00a.m.-4:30p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason S. Morrow  
Primary Examiner  
Art Unit 3612

**JASON MORROW**  
**PRIMARY PATENT EXAMINER**

7/21/05